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7590	04/11/2005		EXAMINER ROSEN, NICHOLAS D	
Patrick S. Yoder Fletcher, Yoder & Van Someren P. O. Box 692289 Houston, TX 77269-2289			ART UNIT 3625	PAPER NUMBER

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/737,874

Applicant(s)

KORITZINSKY ET AL.

Examiner

Nicholas D. Rosen

Art Unit

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 03 February 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,2,5-14,23,24,26-28,41-53 and 55-58 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1,2,5-14,23,24,26-28,41-53 and 55-58 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 15 December 2000 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Claims 1-2, 5-14, 23-24, 26-28, and 41-53, and 55-58 have been examined.

Response to Traversal of Official Notice

Applicant has traversed Examiner's takings of official notice. In response, Examiner has found prior art documents to justify his assertions of the well-known character of certain features. Be it noted that Applicant previously traversed Examiner's takings of official notice, and Examiner previously responded. The following responses are copies of the responses to traversal of official notice made in the Office action mailed June 6, 2003.

In rejecting claims 2, 24, and 53, Examiner took official notice that it is well known for indicia to include textual descriptions of programs or products (e.g., catalog entries). This is supported by Brown et al. (U.S. Patent 5,821,872), column 5, lines 45-60.

In rejecting claim 6, Examiner took official notice that it is well known to store record data. This is supported by Thierrin ("Pen Computers Simplify Projects"), paragraph beginning "Special electronic forms"; and by the anonymous article, "New Software Key to Solving Security Problems," paragraph beginning, "On-line security, in the wake."

In rejecting claim 9, Examiner took official notice that selecting icons, etc., from on-screen menus is well known. This is supported by Bolnick (U.S. Patent 5,838,317), column 18, lines 30-33; by the Microsoft Press Computer Dictionary, pages 303-304; by

the anonymous article, "Hewlett-Packard Introduces CD ROM-Based Computer-Performance Management Tool," paragraph beginning "When users are ready"; and by Mallory ("New for PC: Laplink Upgrade").

In rejecting claim 12, Examiner took official notice that it is well known to display indicia based on data (e.g., information in a catalog or products, or icons, titles, etc. on a computer screen indicating what data is in which files). This is supported by Bond et al. (U.S. Patent 5,119,489), Abstract.

In rejecting claim 23, Examiner took official notice that menus in user interfaces are well known, and that displaying indicia descriptive of a product, program, or file is well known. This is supported by Hahn et al. (U.S. Patent 5,751,287), notably Figures 6, 9C, and 10; and by the Microsoft Press Computer Dictionary, pages 303 and 304.

In rejecting claims 26 and 56, Examiner took official notice that it is well known to make selections by actuating a graphical button on an on-screen display. This is supported by Holzinger ("Bulletin Boards' Global Reach"), final paragraph; by the anonymous article, "CARL Corp. Announces Major New Release for Everybody's Menu Builder," paragraph beginning "Everybody's Menu Builder"; and by Lynch et al. (U.S. Patent 5,835,693), column 48, lines 47-49.

In rejecting claim 27 and 57, Examiner took official notice that it is well known to transfer descriptions of products, programs, or files for display. This is supported by Canter ("Internet Search Tools"), paragraph beginning "Internet mania consists"; by Balas ("The Mac Takes its Place in the World of BBS"), paragraph beginning "If you

want to read a file description"; and by the anonymous article "'Tapeless' Media at NAB," paragraph beginning "EIA demonstrated."

In rejecting claim 28, Examiner took official notice that it is well known to transfer data, etc., in response to selection from a menu. This is supported by Soultz et al. ("Digital Recording Ammeters Provide Cost-Effective Means for Gathering Line Data"), see abstract and paragraph beginning "Recorded data is transferred"; by the anonymous article, "Hewlett-Packard Introduces CD ROM-Based Computer-Performance Management Tool," paragraph beginning "When users are ready"; by Smith ("Satellite Data Broadcasting – an End to the World-Wide-Wait?"), Abstract; and by Mallory ("New for PC: Laplink Upgrade"), paragraph beginning "Laplink allows users."

In rejecting claim 41, Examiner took official notice that it is well known to view lists of items on a user interface, and select a desired item from a list. This is supported by Johnson et al. (U.S. Patent 5,694,616), column 1, lines 15-22, and column 3, lines 6-26; and by Vela et al. (U.S. Patent 5,630,068), column 2, lines 55-61.

In rejecting claim 55, Examiner took official notice that menus for selecting items from are well known. This is supported by Smith ("Satellite Data Broadcasting – an End to the World-Wide-Wait?"), Abstract; by the anonymous article, "Hewlett-Packard Introduces CD ROM-Based Computer-Performance Management Tool," paragraph beginning "When users are ready"; by Panepinto ("Make Room, EDI"), paragraph beginning "Users can fax documents"; and by the Microsoft Press Computer Dictionary, pages 303 and 304.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 1-2 and 5-14

Claims 1, 5, 10, 11, and 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) in view of Wyman (U.S. Patent 5,260,999). As per claim 1, Wood discloses a method for providing operational protocols to medical diagnostic systems, the method comprising the steps of storing a protocol on a machine readable medium (column 2, lines 8-19 and 30-49; column 7, lines 1-43); establishing network links to a first modality diagnostic system at a medical diagnostic location (Figures 1 and 2; column 4, line 66, through column 6, line 38); displaying user viewable indicia descriptive of the protocol at a medical diagnostic

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location (column 2, lines 8-19 and 30-49; column 7, line 1, through column 8, line 4); selecting the protocol via a user interface (Figure 3; column 7, line 1, through column 8, line 4); and loading the protocol at the medical diagnostic location from the machine readable medium to the diagnostic system (Figure 3; column 7, line 1, through column 8, line 4). Wood does not disclose verifying a subscription status for the medical diagnostic location, but Wyman teaches verifying a subscription status of a site seeking to use a program (column 6, line 43, through column 7, line 40). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to verify a subscription status for the diagnostic location, for the obvious advantages of avoiding providing protocols to users who have not paid for subscriptions, and checking protocols downloaded against subscribers, particularly in the case of what Wyman terms a consumptive style, where a subscription allows only a limited number of downloads.

Wood does not disclose storing a plurality of different modality protocols, establishing network links to a first modality diagnostic system or a second modality diagnostic system, loading a protocol to one of the first modality diagnostic system or a second modality diagnostic system, etc. However, to duplicate known parts for multiple effects is held to be within the level of ordinary skill in the relevant art (*St. Regis Paper Co. vs. Bemis Co.*, 193 USPQ 8, 11; 549 F2d 833 [7th Cir. 1977]; *In Re Harza*, 124 USPQ 378, 380; 274 F 2d. 669 [CCPA 1960]). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to store a plurality of

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different modality protocols, etc., for the obvious advantage of providing operational protocols to any of several modality diagnostic systems.

As per claim 5, Wyman teaches transmitting an authorization prompt to the site based upon the verification of subscription status (column 6, line 43, through column 7, line 2). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to transmit an authorization prompt to the medical diagnostic location based upon the verification of the subscription status, for the obvious advantage of enabling the loading of the protocol to be confirmed as authorized, and thus to take place.

As per claim 10, Wood discloses transferring at least one configuration parameter based upon the protocol to a scanner controller for execution of the protocol (column 7, lines 34-58; Figure 3).

As per claim 11, Wood discloses that the machine readable medium includes a memory device remote from the medical diagnostic location (column 2, lines 8-19 and 30-49; column 6, line 15, through column 7, line 33).

As per claim 14, Wood does not quite expressly disclose that the protocol includes data for filming, viewing, reconstructing or processing images reconstructed from image data, but this is implied by Wood's disclosure of image transmission (column 7, lines 1-9; column 8, lines 5-23). Without means for reconstructing and viewing the image data, it is difficult to understand the purpose of transmitting image data.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) and Wyman (U.S. Patent 5,260,999) as applied to claim 1 above, and further in view of official notice. Wood does not expressly disclose that the user viewable indicia include a textual description of at least one protocol, although Wood's words at column 7, lines 27-33, and column 7, line 59, through column 8, line 4 are quite suggestive. It appears improbable that a user of Wood's system would download a protocol new to the user with no textual description of the protocol; even in the case of a protocol familiar to the user, a textual description would be helpful for identifying the protocol, distinguishing it from other available protocols, and reminding the user exactly what it did. In any event, official notice is taken that it is well known for indicia to include textual descriptions of programs or products (e.g., catalog entries). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the user viewable indicia include a textual description of at least one protocol, for the obvious advantage of enabling the user to conveniently acquire information about the protocol.

Claims 6 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood and Wyman as applied to claim 1 above, and further in view of official notice. As per claim 6, Wood does not expressly disclose storing record data indicative of the selection and loading of the protocol, but official notice is taken that it is well known to store record data. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to store record data indicative of the selection and loading of the protocol, for such obvious advantages as confirming what protocol had

been used, whether the protocol had been fully loaded, and resolving any disputes regarding payment for the protocol.

As per claim 8, Wyman teaches that subscriptions are time-expiring subscriptions (column 27, lines 4-11; note also references to "duration" in Abstract and column 7, lines 3-40). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention for the record data to include data representative of a time-expiring subscription, for the obvious advantage of avoiding the unwanted giveaway of protocols for which a subscription had expired.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood, Wyman, and official notice as applied to claim 6 above, and further in view of Reeder (U.S. Patent 5,852,812). Wood does not disclose that record data includes financial record data for invoicing the medical diagnostic location for the protocol, but Reeder teaches storing financial record data for invoicing a user for transactions, such as downloading a file (column 14, lines 27-42). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the record data include financial record data for invoicing the medical diagnostic location for the protocol, for the stated advantage of billing for file downloading.

Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) and Wyman (U.S. Patent 5,260,999) as applied to claim 1 above, and further in view of official notice. Wood does not expressly disclose that selecting the protocol includes selecting a graphical interface device of an on-screen menu, but official notice is taken that selecting icons, etc., from on-screen menus is well

known. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the step of selecting the protocol include selecting a graphical interface device of an on-screen menu, for the obvious advantage of enabling users to select a protocol in a standard way, likely to be familiar and easily understandable to many users.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) and Wyman (U.S. Patent 5,260,999) as applied to claim 1 above, and further in view of official notice. Wood does not expressly disclose accessing product configuration data representative of a hardware or software configuration of a medical diagnostic system, and displaying the indicia based on the configuration data. However, Wood discloses accessing product configuration data controlling the hardware or software configuration of a medical diagnostic system (column 2, lines 8-19 and 30-49; column 7, line 1-58), and discloses a user choosing configuration data (column 7, lines 1-58). Official notice is taken that it is well known to display indicia based on data (e.g., information in a catalog or products, or icons, titles, etc. on a computer screen indicating what data is in which files). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to display indicia based upon the configuration data, for the obvious advantage of telling users which files, etc., contain which configuration data.

Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) and Wyman (U.S. Patent 5,260,999) as applied to claim 1 above, and further in view of Narayanaswami et al. (U.S. Patent 6,504,571). Wood

does not disclose that the indicia are sortable by image parameters, but Narayanaswami teaches sorting by image parameters (Abstract; column 1, line 7, through column 2, line 6). Hence it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the indicia be sortable by image parameters, for the obvious advantage of aiding a user in finding images relevant to his current needs.

Claims 23-24 and 26-28

Claims 23-24 and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) in view of Wyman (U.S. Patent 5,260,999) and official notice. As per claim 23, Wood discloses a method for providing an operational protocol for a medical diagnostic system, the method comprising the steps of: storing the protocol on a machine readable medium (column 2, lines 8-19 and 30-49; column 7, lines 1-43); selecting a protocol (column 7, line 1, through column 8, line 4; Figure 3); and transmitting data defining at least one operational parameter from the machine readable medium to a system controller for execution of the protocol (column 7, lines 34-58; Figure 3). Wood does not disclose verifying a subscription status for the diagnostic location thereby allowing access to the protocol, but Wyman teaches verifying a subscription status of a site seeking to use a program thereby allowing access to the program (column 6, line 43, through column 7, line 40). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to verify a subscription status for the diagnostic location thereby allowing access to the protocol, for the obvious advantages of avoiding providing protocols to users who have

not paid for subscriptions, and checking protocols downloaded against subscribers, particularly in the case of what Wyman terms a consumptive style, where a subscription allows only a limited number of downloads.

Wood does not expressly disclose displaying indicia descriptive of the protocol in a protocol menu of a user interface, or selecting the protocol from the menu. However, official notice is taken that menus in user interfaces are well known, and that displaying indicia descriptive of a product, program, or file is well known. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to display indicia descriptive of the protocol in a protocol menu of a user interface, and select the protocol from the menu, for the obvious advantage of enabling users to conveniently obtain information about protocols, and select a desired protocol, by common, well-known means likely to be familiar to users.

Wood does not disclose storing at least two protocols for at least first and second diagnostic systems of first and second respective modalities, transmitting data to a system controller for execution of one of the at least two protocols, etc. However, to duplicate known parts for multiple effects is held to be within the level of ordinary skill in the relevant art (*St. Regis Paper Co. vs. Bemis Co.*, 193 USPQ 8, 11; 549 F2d 833 [7th Cir. 1977]; *In Re Harza*, 124 USPQ 378, 380; 274 F 2d. 669 [CCPA 1960]). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to store at least two operational protocols, etc., for the obvious advantage of providing operational protocols to any of several modality diagnostic systems.

As per claim 24, Wood does not expressly disclose that the indicia include a textual description of one of the protocols, although Wood's words at column 7, lines 27-33, and column 7, line 59, through column 8, line 4 are quite suggestive. It appears improbable that a user of Wood's system would download a protocol new to the user with no textual description of the protocol; even in the case of a protocol familiar to the user, a textual description would be helpful for identifying the protocol, distinguishing it from other available protocols, and reminding the user exactly what it did. In any event, official notice is taken that it is well known for indicia to include textual descriptions of programs or products (e.g., catalog entries). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the indicia include a textual description of one of the protocols, for the obvious advantage of enabling the user to conveniently acquire information about the protocol.

As per claim 26, Wood does not expressly disclose that the step of selecting includes actuation of a graphical button on an on-screen display, but official notice is taken that it is well known to make selections by actuating a graphical button on an on-screen display. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the step of selecting include actuation of a graphical button on an on-screen display, for the obvious advantage of enabling users to select a protocol conveniently by common, well-known means likely to be familiar to users.

Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood, Wyman, and official notice as applied to claim 23 above, and further in view

of Munoz (U.S. Patent 6,343,124). As per claim 27, Wood discloses establishing a network link between the diagnostic system and a remote service facility (Figures 1 and 2; column 4, line 66, through column 6, line 38). Wood does not expressly disclose transferring a description of the protocol from the service facility to the diagnostic system for display in the menu, but official notice is taken that it is well known to transfer descriptions of products, programs, or files for display. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to transfer a description of the protocol from the service facility to the diagnostic system for display in the menu, for the obvious advantage of conveniently enabling a user to learn the features of the protocols before selecting an appropriate protocol.

Wood does not disclose establishing a network link between the first diagnostic system and the second diagnostic system and the remote service facility, and transferring a description of one of the at least two protocols to one of the first diagnostic system and the second diagnostic system for display, but Munoz teaches establishing a network link between first and second systems and a remote service facility, and transmitting selected programs to one of a first system and a second system (Abstract; column 3, lines 11-54). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to establish a network link between the first diagnostic system and the second diagnostic system and the remote service facility, and transfer appropriate data to one of the first diagnostic system and the second diagnostic system, for the obvious advantage of making appropriate protocols/programs available at systems where they would be useful.

As per claim 28, Wood discloses an establishing a network link between the diagnostic system and a remote service facility (Figures 1 and 2; column 4, line 66, through column 6, line 38), and discloses transferring data defining the protocol from the service facility to the diagnostic system (column 7, lines 1-52). Wood does not expressly disclose transferring data defining the protocol from the service facility to the diagnostic system in response to selection of the protocol from the menu, but official notice is taken that it is well known to transfer data, etc., in response to selection from a menu. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to transfer data defining the protocol from the service facility to the diagnostic system in response to selection of the protocol from the menu, for the obvious advantage of conveniently enabling users to obtain the data, using standard features likely to be familiar to users.

Wood does not disclose establishing a network link between the first diagnostic system and the second diagnostic system and the remote service facility, and transferring a description of one of the at least two protocols to one of the first diagnostic system and the second diagnostic system for display, but Munoz teaches establishing a network link between first and second systems and a remote service facility, and transmitting selected programs to one of a first system and a second system (Abstract; column 3, lines 11-54). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to establish a network link between the first diagnostic system and the second diagnostic system and the remote service facility, and transfer appropriate data to one of the first diagnostic system and

the second diagnostic system, for the obvious advantage of making appropriate protocols/programs available at systems where they would be useful.

Claims 41-45

Claims 41 and 43 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) in view of Wyman (U.S. Patent 5,250,999) and official notice. As per claim 41, Wood discloses a method for obtaining operational protocols in medical diagnostic systems, the method comprising the steps of establishing a network link from a medical diagnostic system with a remote protocol library (Figures 1 and 2; column 4, line 66, through column 6, line 38); accessing data from the protocol library defining the desired protocol (column 7, lines 1-46); and transmitting the data from the library to the diagnostic system (column 7, lines 1-46). Wood does not disclose verifying a subscription status for access to the desired protocol, but Wyman teaches verifying a subscription status for access to a program (column 6, line 43, through column 7, line 40). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to verify a subscription status for access to the protocol, for the obvious advantages of avoiding providing protocols to users who have not paid for subscriptions, and checking protocols downloaded against subscribers, particularly in the case of what Wyman terms a consumptive style, where a subscription allows only a limited number of downloads.

Wood does not expressly disclose viewing a protocol list on a user interface at the medical diagnostic system; and selecting a desired protocol from the list, based at least partially on a user viewable indicia descriptive of the desired protocol. However,

Wood does disclose selecting a desired protocol (column 7, line 1, through column 8, line 4), and official notice is taken that it is well known to view lists of items on a user interface, and select a desired item from a list. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to view a protocol list on a user interface at the medical diagnostic system, and to select a desired protocol from the list, based at least partially on a user viewable indicia descriptive of the desired protocol, for the obvious advantage of enabling the user to select a desired protocol in a convenient way likely to be familiar to users.

Wood does not disclose viewing at least one of a plurality of protocol lists at a first medical diagnostic medical system, establishing network links from one of a first modality diagnostic system or a second modality diagnostic system, and transmitting data from the protocol library to one of the first modality diagnostic system or a second modality diagnostic system. However, to duplicate known parts for multiple effects is held to be within the level of ordinary skill in the relevant art (*St. Regis Paper Co. vs. Bemis Co.*, 193 USPQ 8, 11; 549 F2d 833 [7th Cir. 1977]; *In Re Harza*, 124 USPQ 378, 380; 274 F 2d. 669 [CCPA 1960]). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to view one of a plurality of protocol lists, etc., for the obvious advantage of providing operational protocols to any of several modality diagnostic systems.

As per claim 43, Wood does not disclose transmitting data descriptive of the desired protocol to a medical diagnostic system for addition to at least one of the protocol lists, but does disclose the user selecting a protocol (column 7, line 1, through

column 8, line 4), from which the availability of data describing the protocols is held to be obvious. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to transmit descriptive of the protocol to the medical diagnostic system for addition to at least one of the protocol lists, for the obvious advantage of making it practical for users to know that the protocol was available, and what the protocol was good for.

Claim 42 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood, Wyman, and official notice as applied to claim 41 above, and further in view of the admitted prior art. Wood does not disclose that the protocol library includes the plurality of protocols for a plurality of diagnostic systems, but the duplication of known parts to obtain a multiple effect is held to be obvious, as set forth above, and it is admitted prior art that there are a plurality of diagnostic system modalities with respective protocols (the instant application, page 1, line 22, through page 2, line 25). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention for the library to include the plurality of protocols for a plurality of diagnostic system modalities, for the obvious advantage of enabling users of a plurality of diagnostic systems to obtain suitable protocols.

Wood does not disclose that each of the plurality of protocol lists includes only protocols for one of the first modality or the second modality of the first modality or the second modality, but official notice is taken that it is well known to categorize information by relevance (e.g., listing spare parts, etc., for a particular car separately from parts for other cars). Hence, it would have been obvious to one of ordinary skill in

the art at the time of applicant's invention for each of the plurality of protocol lists to include only protocols for one of the first modality of the first medical diagnostic system or the second modality of the second medical diagnostic system, for the obvious advantage of presenting information in a convenient structure, enabling users of respective diagnostic systems to easily find suitable protocols relevant to their needs without being distracted by what is not.

Claims 44 and 45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood, Wyman, and official notice as applied to claim 41 above, and further in view of Reeder (U.S. Patent 5,852,812). As per claim 44, Wood does not disclose authorizing a fee for the protocol, but Reeder teaches charging a fee for downloading a file (column 14, lines 25-42), from which authorizing a fee is held to be obvious, since attempting to charge people fees which they have in no way authorized would in many cases lead to complaints, refusal to pay, and possible litigation or prosecution. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to authorize a fee for the protocol, for the obvious advantage of collecting fees without these difficulties.

As per claim 45, Reeder discloses updating a fee file (column 14, lines 25-42). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to update a fee file in response to authorization of the fee, for the obvious advantage of billing users fully for their downloading of protocols.

Claims 46-50

Claim 46 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) in view of Wyman (U.S. Patent 5,250,999), and Munoz (U.S. Patent 6,343,124). Wood discloses a system for providing operational protocols to a plurality of medical diagnostic scanners, the system comprising: at least one storage device for storing data defining a first modality protocol, including user viewable indicia descriptive of the first modality protocol (column 2, lines 8-19 and 30-49; column 7, lines 1-43). Wood does not expressly disclose a messaging module for formulating messages containing data descriptive of the first and second modality protocols, but Wood discloses transmitting the protocol to a medical diagnostic system (column 7, lines 1-58), and discloses the user selecting appropriate protocols (column 7, line 1, through column 8, line 4). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include a messaging module for formulating messages containing data descriptive of the protocols, for the obvious advantage of enabling the user to know that the protocol was available, and what the protocol was good for.

Wood does not disclose a license module for verifying a subscription status regarding the first protocol, but Wyman teaches a license module for verifying a subscription status for access to a program (column 6, line 43, through column 7, line 40). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include a license module for verifying a subscription status regarding the protocols, for the obvious advantages of avoiding providing protocols to users who have not paid for subscriptions, and checking protocols downloaded against

subscribers, particularly in the case of what Wyman terms a consumptive style, where a subscription allows only a limited number of downloads.

Wood does not disclose communications circuitry for establishing network links to first and second modality diagnostic systems and for transmitting data descriptive of the first modality protocol to the first modality system and data descriptive of the second modality protocol to the second modality diagnostic system. However, Munoz teaches communication circuitry for establishing network links to first and second modality systems and for transmitting appropriate first and second data to said first and second systems (Abstract; column 3, lines 11-54). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include communications circuitry for establishing network links to first and second modality diagnostic systems and for transmitting data descriptive of the first modality protocol to the first modality system and data descriptive of the second modality protocol to the second modality diagnostic system for the obvious advantage of making data descriptive of appropriate protocols/programs available at systems where such data would be useful.

Claim 47 is rejected under 35 U.S.C. 103(a) as being unpatentable over Wood, Wyman, and Munoz as applied to claim 46 above, and further in view of official notice. Wood does not disclose that the network links to the first and second modality diagnostic systems are initiated by the communications circuitry, but official notice is taken that it is well known to initiate network links to data recipients from the communications circuitry at a data sender (e.g., in pushing updated programs, or, for that matter, in sending e-mail). Hence, it would have been obvious to one of ordinary

skill in the art at the time of applicant's invention to have the network links to the first and second modality diagnostic systems be initiated by the communications circuitry, for the obvious advantage of notifying users of the first and second modality diagnostic systems of new or improved protocols for better using their diagnostic systems.

Claims 48, 49 and 50 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood, Wyman, and Munoz as applied to claim 46 above, and further in view of the admitted prior art. As per claim 48, Wood does not disclose that the first modality is a magnetic resonance imaging modality, but it is admitted prior art that magnetic resonance imaging is a well known modality for medical diagnostic systems (pages 1 and 2). As per claim 49, Wood does not disclose that the first modality is a computed tomography imaging modality, but it is admitted prior art that computed tomography imaging is a well known modality for medical diagnostic systems (pages 1 and 2). As per claim 48, Wood does not disclose that the first modality is an x-ray imaging modality, but it is admitted prior art that x-ray imaging is a well known modality for medical diagnostic systems (pages 1 and 2). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the first modality be one of a magnetic resonance imaging modality, computed tomography imaging modality, or an x-ray imaging modality, for the obvious advantage of supplying protocols and corresponding descriptive data for these common imaging modalities.

Claims 51-53 and 55-58

Claims 51 and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood et al. (U.S. Patent 5,891,035) in view of Wyman (U.S. Patent 5,260,999). As

per claim 51, Wood discloses a method for providing operational protocols for a medical diagnostic system, the method comprising the step of: storing protocols for a medical diagnostic system on a machine readable medium (column 2, lines 8-19 and 30-49; column 7, lines 1-43). Wood does not expressly disclose transmitting a description of the protocol to a medical diagnostic system; and displaying the description of the protocol at the medical diagnostic system. However, Wood discloses transmitting the protocol to a medical diagnostic system (column 7, lines 1-58), and discloses the user selecting appropriate protocols (column 7, line 1, through column 8, line 4), as well as displaying information descriptive of protocols at a medical diagnostic system (column 2, lines 8-19 and 30-49; column 7, line 1, through column 8, line 4). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to transmit a description of the protocol to a medical diagnostic system and display the description of the protocol at the medical diagnostic system, configured to be utilized in the selection of protocols, for the obvious advantage of enabling the user to know that the protocol was available, and what the protocol was good for.

Wood does not disclose verifying a subscription status for access to the protocol, but Wyman teaches verifying a subscription status for access to a program (column 6, line 43, through column 7, line 40). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to verify a subscription status for access to the protocol, for the obvious advantages of avoiding providing protocols to users who have not paid for subscriptions, and checking protocols downloaded against

subscribers, particularly in the case of what Wyman terms a consumptive style, where a subscription allows only a limited number of downloads.

Wood does not disclose storing a plurality of different modality protocols for first modality diagnostic system and second modality diagnostic system, transmitting a description of the protocols to one of the first modality diagnostic system or a second modality diagnostic system, and displaying the description at one of the first modality diagnostic system and a second modality diagnostic system. However, to duplicate known parts for multiple effects is held to be within the level of ordinary skill in the relevant art (*St. Regis Paper Co. vs. Bemis Co.*, 193 USPQ 8, 11; 549 F2d 833 [7th Cir. 1977]; *In Re Harza*, 124 USPQ 378, 380; 274 F 2d. 669 [CCPA 1960]). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to store a plurality of different modality protocols, etc., for the obvious advantage of providing operational protocols to any of several modality diagnostic systems.

As per claim 52, Wood discloses transmitting data defining at least one operational parameter from the machine readable medium to a system controller for execution of the protocol on a medical diagnostic system (column 7, lines 34-58; Figure 3).

Claims 53, 55, and 56 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood and Wyman as applied to claim 51 above, and further in view of official notice. As per claim 53, Wood does not expressly disclose that the description includes a textual description of one of the plurality of protocols, although Wood's words at column 7, lines 27-33, and column 7, line 59, through column 8, line 4

are quite suggestive. It appears improbable that a user of Wood's system would download a protocol new to the user with no textual description of the protocol; even in the case of a protocol familiar to the user, a textual description would be helpful for identifying the protocol, distinguishing it from other available protocols, and reminding the user exactly what it did. In any event, official notice is taken that it is well known for descriptions to include textual descriptions of programs or products (e.g., catalog entries). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the description include a textual description of one of the protocols, for the obvious advantage of enabling the user to conveniently acquire information about the protocol.

As per claim 55, Wood does not expressly disclose selecting the protocol from a protocol menu displayed at a medical diagnostic system, but official notice is taken that menus for selecting items from are well known (see, for example, the Microsoft Press Computer Dictionary, pages 303-304). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to include the step of selecting the protocol from a protocol menu displayed from a protocol menu displayed at the diagnostic system, for the obvious advantage of enabling users of the diagnostic system to conveniently select a desired protocols, by common, well-known means likely to be familiar to users.

As per claim 56, Wood does not expressly disclose that the selecting step includes actuation of a graphical button on an on-screen display, but official notice is taken that it is well known to make selections by actuating a graphical button on an on-

screen display. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to have the selecting step include actuation of a graphical button on an on-screen display, for the obvious advantage of enabling users to select a protocol conveniently by common, well-known means likely to be familiar to users.

Claims 57 and 58 are rejected under 35 U.S.C. 103(a) as being unpatentable over Wood and Wyman as applied to claim 51 above, and further in view of Munoz (U.S. Patent 6,343,124) and official notice. As per claim 57, Wood discloses an establishing a network link between the diagnostic system and a remote service facility (Figures 1 and 2; column 4, line 66, through column 6, line 38). Wood does not expressly disclose transferring a description of the protocol from the service facility to the diagnostic system for display, but official notice is taken that it is well known to transfer descriptions of products, programs, or files for display. Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to transfer a description of the protocol from the service facility to the diagnostic system for display, for the obvious advantage of conveniently enabling a user to learn the features of the protocols before selecting an appropriate protocol.

Wood does not disclose establishing a network link between the first and second medical diagnostic systems and a remote service facility, but Munoz teaches establishing a network link between first and second systems and a remote service facility, and transmitting selected programs to one of a first system and a second system (Abstract; column 3, lines 11-54). Hence, it would have been obvious to one of

ordinary skill in the art at the time of applicant's invention to establish a network link between the first diagnostic system and the second diagnostic system and the remote service facility, and transfer appropriate data to one of the first medical diagnostic system and the second medical diagnostic system, for the obvious advantage of making appropriate protocols/programs available at systems where they would be useful.

As per claim 58, Wood discloses an establishing a network link between the diagnostic system and a remote service facility (Figures 1 and 2; column 4, line 66, through column 6, line 38), and discloses transferring data defining the protocol from the service facility to the diagnostic system in response to selection of the protocol at the diagnostic system (column 7, lines 1-52). Wood does not disclose establishing a network link between the first and second medical diagnostic systems and a remote service facility, but Munoz teaches establishing a network link between first and second systems and a remote service facility, and transmitting selected programs to one of a first system and a second system (Abstract; column 3, lines 11-54). Hence, it would have been obvious to one of ordinary skill in the art at the time of applicant's invention to establish a network link between the first diagnostic system and the second diagnostic system and the remote service facility, and transfer appropriate data to one of the first medical diagnostic system and the second medical diagnostic system, for the obvious advantage of making appropriate protocols/programs available at systems where they would be useful.

Response to Arguments

Applicant's arguments filed February 3, 2005, have been fully considered but they are not persuasive. First, Applicant argues that Examiner has improperly used hindsight reconstruction to argue that Wood teaches utilizing user viewable indicia to select a protocol. Examiner replies that Examiner never asserted that Wood quite expressly disclosed that; Examiner did state (in rejecting claim 1; similar but not identical statements were made with regard to other claims) that Wood discloses, "displaying user viewable indicia descriptive of the protocol at a medical diagnostic location (column 2, lines 8-19 and 30-49; column 7, line 1, through column 8, line 4)." Examiner held that Wood discloses displaying user viewable descriptive indicia, and that Wood discloses selecting protocols (Figure 3; column 7, line 1, through column 8, line 4). Examiner holds that it is a very reasonable imputation, not impermissible hindsight, to take it as obvious that the protocols would be utilized in the selection of one of the plurality of protocols. The alternative is to suppose that Wood envisioned a user of his system viewing displays of information about protocols ("presets" in wood's terminology), and selecting a protocol suitable for his particular needs and uses, but doing so without regard to the displayed indicia descriptive of protocols. This is an implausible scenario, or, even if it might occur on occasion, it is implausible that it would occur every time a user selected a protocol.

Applicant has made of record the Board's Decision in related case 09/476,708 (now allowed), and referred to it in arguing for the patentability of Applicant's claims, but the Board's ruling was that the exemplary images of Wood were at the back end of

Wood's process, and moving them to the front was impermissible hindsight reconstruction. However, the claims of the instant application do not recite the use of exemplary images, and the "user viewable indicia" could include not only exemplary images obtainable via the protocol, but written descriptions, descriptive titles of particular protocols, etc.

Secondly, Applicant argues that the presence of protocols for diagnostic systems of distinct first and second modalities is a nonobvious advance over the Wood system, which involves protocols for only one modality (an ultrasound diagnostic system). In particular, Applicant argues that the presence of protocols for multiple modalities of diagnostic systems provided by single system offers advantages over multiple systems, each providing protocols for a single diagnostic modality system. That may be so, but the existence of some advantage is not sufficient to establish nonobviousness.

Examiner observes that there are analogies in selling different categories of goods from a website (or an ordinary brick-and-mortar retailer) rather than selling different types of goods at multiple specialized sites; or publishing different categories of information in a newspaper, rather than providing local news, national news, foreign news, weather, advertisements, editorials, etc., only in specialized publications.

Finally, Applicant argues that the Wyman reference is not pertinent prior art, and would not have been considered by one skilled in the particular art working on the particular problem to which the invention pertains. Examiner has already addressed this argument in the Office action of June 6, 2003, and reiterates the arguments set forth there. Furthermore, the Board's Decision in related case 09/476,708 upheld the

use of Reeder as relevant art, on the grounds that, "Appellants have improperly limited the field of art to medical systems or access to image protocols. We find that the invention is clearly directed to a combined medical diagnostics and billing system. We find that the analogous art includes both the Wood et al. and Reeder patents." (Page 10.) The Board's Decision does not contain a similarly explicit statement upholding the character of Wyman as analogous art, but an analogous argument appears to apply; the invention being directed to a combination including a billing system for the use of protocols, subscription verification, such as is taught by Wyman, becomes relevant prior art. Also, be it noted that the Board's Decision nowhere rules or suggests that the Board did not consider Wyman relevant and applicable prior art.

Applicant argues for the allowability of the dependent claims, based on the alleged allowability of the independent claims. Examiner replies that based on the rejections of independent claims, and the secondary references used in rejecting the dependent claims, the rejections of the dependent claims remain valid and are maintained.

Lastly, Examiner has responded to Applicant's traversal of official notice by citing prior art references expressly teaching what Examiner took official notice of as being well known; see above.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Hoium et al. (U.S. Patent 5,951,484) disclose a method of

noninvasively determining a patient's susceptibility to arrhythmia, and in particular disclose selection of medical protocol steps from a list (Figures 29 and 30). Stark et al. (U.S. Patent 6,371,123) disclose a system for orthopedic treatment protocol and method of use thereof, and in particular disclose selection of a medical protocol based on image and text data (column 3, line 55, through column 4, line 42). Hastings (U.S. Patent 6,847,933) discloses an ultrasound image and other medical image storage system.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Nicholas D. Rosen, whose telephone number is 703-305-0753. The examiner's telephone number is expected to be changed to 571-272-

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6762 on or about April 13, 2005. The examiner can normally be reached on 8:30 AM - 5:00 PM, M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins, can be reached on 703-308-1344. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306. Non-official/draft communications can be faxed to the examiner at 703-746-5574.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Nicholas D. Rosen
NICHOLAS D. ROSEN
PRIMARY EXAMINER

April 5, 2005